

Agricultural Marketing Service, USDA

§ 953.36

such expenses shall be acquired by levying assessments as provided in § 953.34.

§ 953.34 Assessments.

(a) Each handler who first handles potatoes shall, with respect to the potatoes so handled by him, pay to the committee such handler's pro rata share of the expenses which the Secretary finds will be necessarily incurred by the committee for its maintenance and functioning during each fiscal year. Such handler's pro rata share of such expenses shall be equal to the ratio between the total quantity of potatoes handled by him as the first handler thereof, during the applicable fiscal year, and the total quantity of potatoes handled by all handlers as the first handlers thereof, during the same fiscal year. The Secretary shall fix the rate of assessment to be paid by such handlers: *Provided*, That the rate of assessment during each fiscal year shall not exceed 1 cent per hundred-weight.

(b) At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Such increase shall be applicable to all potatoes handled during the given fiscal year. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

§ 953.35 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately and to the extent practical to the persons from whom it was collected: *Provided*, That each handler may be credited with such refund, for the operations of the following fiscal period, unless he demands payment thereof, in which event such proportionate refund shall be paid to him.

(2) The committee, with the approval of the Secretary, may establish an operating monetary reserve, and may carry over into subsequent fiscal peri-

ods such excess in a reserve so established: *Provided*, That funds in the reserve shall not exceed approximately one fiscal period's expenses. Such reserve funds may be used by the committee (i) to defray expenses authorized pursuant to § 953.33, (ii) to defray expenses during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation and after reasonable effort by the committee it is found impracticable to return such remaining funds to handlers from whom collected, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

(b) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person or persons to act as trustee or trustees for holding records, funds, or any other committee property during periods of suspension of this part, or during any period or periods when regulations are not in effect; and, if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

[33 FR 8504, June 8, 1968]

§ 953.36 Funds.

All funds received by the committee pursuant to any provision of this subpart shall be used solely for the purposes specified in this subpart and shall be accounted for in the following manner:

(a) The Secretary may, at any time, require the committee and its members to account for all receipts and disbursements; and

(b) Whenever any person ceases to be a member of the committee, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to

§ 953.40

his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member.

REGULATIONS

§ 953.40 Marketing policy.

Prior to or at the same time initial recommendations in any fiscal period are made pursuant to § 953.41, the committee shall prepare a marketing policy, and promptly submit a copy thereof to the Secretary, setting forth its proposed policy for the marketing of potatoes during such fiscal period. In the event it becomes advisable to deviate from such marketing policy, because of changed demand and supply conditions, or as the Secretary may request, the committee shall formulate a revised marketing policy and shall submit a report thereon to the Secretary. Notice of each such marketing policy and revision thereof shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be available for examination at the committee office to all interested parties.

[33 FR 8504, June 8, 1968]

§ 953.41 Recommendations for regulations.

(a) It shall be the duty of the committee to investigate supply and demand conditions for grades, sizes, and qualities of all potatoes. Whenever the committee finds that such conditions make it advisable to regulate the shipment of particular grades, sizes, or qualities of potatoes during any period in any or all portions of the production area, it shall recommend to the Secretary the particular grades, sizes, and qualities, or any combination thereof, of such potatoes deemed advisable to be shipped during such period: *Provided*, That the committee shall not recommend to the Secretary any regulation limiting the shipment of U.S. No. 1 grade or better, as such grades are defined in United States Standards for

7 CFR Ch. IX (1-1-01 Edition)

Potatoes in effect at the time of recommendation.

(b) In determining the grades, sizes, and qualities of potatoes or any and all combinations thereof deemed advisable to be regulated in view of the prospective demand thereof, the committee shall give due consideration to the following factors:

(1) Market prices, including prices by grades and sizes, of potatoes for which regulation is recommended;

(2) Potatoes on hand in the market areas as manifested by supplies en route and on track at the principal markets;

(3) Available supply, quality, and condition of potatoes in the production area and other production areas;

(4) Supplies from competing areas and regions producing potatoes;

(5) The trend and level of consumer income; and

(6) Other relevant factors.

§ 953.42 Issuance of regulations.

Whenever the Secretary shall find, from the recommendations, information and evidence submitted by the committee, or from other available information, that to limit the shipment of potatoes to particular grades, sizes, and qualities thereof in any or all portions of the production area would tend to effectuate the declared policy of the act, he shall so limit by appropriate regulations thereon the shipments of such potatoes during a specified period. The Secretary shall notify the committee of any such regulation and the committee shall give reasonable notice thereof to handlers: *Provided*, That no regulations shall be issued under this subpart limiting the shipment of U.S. No. 1 grade or better, as such grades are defined in United States Standards for Potatoes in effect at the time such regulations are issued.

§ 953.43 Minimum standards of quality.

(a) *Recommendation*. Whenever the committee deems it advisable to establish and maintain minimum standards of quality governing the shipment of potatoes, it shall recommend to the Secretary such minimum standards of quality in terms of grades, sizes, or both, below which shipments are to be prohibited. At the time of submitting